

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0029-AIR-E **TCEQ ID:** RN100235266 **CASE NO.:** 32021  
**RESPONDENT NAME:** Flint Hills Resources, LP

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Corpus Christi West Plant, 2825 Suntide Road, Corpus Christi, Nueces County

**TYPE OF OPERATION:** Crude oil refinery

**SMALL BUSINESS:** ☐ Yes ☒ No

**OTHER SIGNIFICANT MATTERS:** No complaints were received. There are two additional pending enforcement actions regarding this facility location, Docket Nos. 2004-1597-AIR-E and 2007-0297-AIR-E

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on May 14, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

**Respondent:** Mr. Phil Gaarder, Vice President and Manufacturing Manager, Flint Hills Resources, LP, P.O. Box 2608, Corpus Christi, Texas 78403-2608

Ms. Janice Golden, Environmental Manager, Flint Hills Resources, LP, P.O. Box 2608, Corpus Christi, Texas 78403

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>  None</p> <p><b>Date of Investigation Relating to this Case:</b>  November 8, 2006</p> <p><b>Date of NOE Relating to this Case:</b> December 8, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>AIR</b></p> <p>Failed to prevent unauthorized emissions. Specifically, 973.6 pounds ("lbs") of sulfur dioxide and 69.5 lbs of the Hazardous Air Pollutant benzene were released from the 1st Stage Flare (EPN V-6), 2nd Stage Flare (EPN V-5) and the Hydrocracker Unit (F-26) during an emissions event that began October 10, 2006 and lasted one hour and 12 minutes. Since these emissions were avoidable, Flint Hills failed to meet the demonstrations necessary to present an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.715(a) and 101.20(3), TEX. HEALTH &amp; SAFETY CODE § 382.085(b) and Permit No. 8803A/PSD-TX-413M8, Special Condition No. 1].</p>	<p><b>Total Assessed:</b> \$3,425</p> <p><b>Total Deferred:</b> \$685  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,740</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that Flint Hills has implemented the following corrective measures for all Turn-around activities at the Hydrocracker Unit as of December 5, 2006:</p> <p>a. Changes in practices have been implemented for the Hydrocracker Turn-around which require personnel to review the current decommissioning procedure; and</p> <p>b. An in-hand low point valve checklist is reviewed to identify that the decommissioning hose is connected to the correct point valve on pressured lines above 500 pounds pressure.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**  
**DATES**

Assigned 11-Dec-2006  
PCW 20-Dec-2006 Screening 20-Dec-2006 EPA Due 2-Sep-2007

## RESPONDENT/FACILITY INFORMATION

Respondent Flint Hills Resources, LP  
Reg. Ent. Ref. No. RN100235266  
Facility/Site Region 14-Corpus Christi Major/Minor Source Major

## CASE INFORMATION

Enf./Case ID No. 32021 No. of Violations 1  
Docket No. 2007-0029-AIR-E Order Type 1660  
Media Program(s) Air Quality Enf. Coordinator John Muennink  
Multi-Media EC's Team Enforcement Team 6  
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

## Penalty Calculation Section

### TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$2,500

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 62% Enhancement Subtotals 2, 3, & 7 \$1,550

Notes

Enhancement due to one NOV with same or similar violations, eight NOVs with unrelated violations (including three self-reported monthly effluent violations), one 1660 Agreed Order and one Findings Order. Reduction due to two notice of audit letters and one disclosure of violations.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25% Reduction

Subtotal 5 \$625

Extraordinary

Before NOV

NOV to EDPRP/Settlement Offer

Ordinary

X

N/A

(mark with x)

Notes

The respondent completed all corrective actions on December 5, 2006.

0% Enhancement\*

Subtotal 6 \$0

Total EB Amounts \$11  
Approx. Cost of Compliance \$1,400

\*Capped at the Total EB \$ Amount

### SUM OF SUBTOTALS 1-7

Final Subtotal \$3,425

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$3,425

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$3,425

### DEFERRAL

20%

Reduction

Adjustment -\$685

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

### PAYABLE PENALTY

\$2,740

Screening Date 20-Dec-2006

Docket No. 2007-0029-AIR-E

PCW

Respondent Flint Hills Resources, LP

Policy Revision 2 (September 2002)

Case ID No. 32021

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100235266

Media [Statute] Air Quality

Enf. Coordinator John Muennink

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement due to one NOV with same or similar violations, eight NOVs with unrelated violations (including three self-reported monthly effluent violations), one 1660 Agreed Order and one Findings Order. Reduction due to two notice of audit letters and one disclosure of violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 62%

Screening Date 20-Dec-2006

Docket No. 2007-0029-AIR-E

PCW

Respondent Flint Hills Resources, LP

Policy Revision 2 (September 2002)

Case ID No. 32021

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN100235266

Media [Statute] Air Quality

Enf. Coordinator John Muennink

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.715(a) and 101.20(3), Tex. Health and Safety Code § 382.085(b) and Permit No. 8803A/PSD-TX-413M8, Special Condition No. 1

## Violation Description

Failed to prevent unauthorized emissions. Specifically, 973.6 pounds ("lbs") of sulfur dioxide and 69.5 lbs of the Hazardous Air Pollutant benzene were released from the 1st Stage Flare (EPN V-6), 2nd Stage Flare (EPN V-5) and the Hydrocracker Unit (F-26) during an emissions event that began October 10, 2006 and lasted one hour and 12 minutes. Since these emissions were avoidable, Flint Hills failed to meet the demonstrations necessary to present an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$3,425

This violation Final Assessed Penalty (adjusted for limits) \$3,425

## Economic Benefit Worksheet

**Respondent:** Flint Hills Resources, LP  
**Case ID No.:** 32021  
**Reg. Ent. Reference No.:** RN100235266  
**Media:** Air Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,400	10-Oct-2006	5-Dec-2006	0.2	\$11	n/a	\$11

Notes for DELAYED costs

Estimated expense to implement measures designed to prevent the reoccurrence of emissions due to similar causes. Date required is the date of the emissions event. Final date is the date corrective actions were completed.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,400

TOTAL

\$11

## Compliance History

Customer/Respondent/Owner-Operator:	CN600879712	Flint Hills Resources, LP	Classification: AVERAGE	Rating: 3.37
Regulated Entity:	RN100235266	FLINT HILLS RESOURCES CORPUS CHRISTI WEST PLANT	Classification: AVERAGE	Site Rating: 1.77
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION		EPA ID	TXD088474663
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION		SOLID WASTE REGISTRATION # (SWR)	30529
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE		PERMIT	50097
	WASTEWATER		PERMIT	WQ0000531000
	WASTEWATER		PERMIT	TPDES0006289
	WASTEWATER		PERMIT	TX0006289
	AIR NEW SOURCE PERMITS		PERMIT	8803A
	AIR NEW SOURCE PERMITS		ACCOUNT NUMBER	NE0122D
	AIR NEW SOURCE PERMITS		PERMIT	1533
	AIR NEW SOURCE PERMITS		PERMIT	1914
	AIR NEW SOURCE PERMITS		PERMIT	6628
	AIR NEW SOURCE PERMITS		PERMIT	6918A
	AIR NEW SOURCE PERMITS		PERMIT	11278
	AIR NEW SOURCE PERMITS		PERMIT	11813
	AIR NEW SOURCE PERMITS		PERMIT	15914
	AIR NEW SOURCE PERMITS		PERMIT	16173
	AIR NEW SOURCE PERMITS		PERMIT	19265
	AIR NEW SOURCE PERMITS		PERMIT	19331
	AIR NEW SOURCE PERMITS		PERMIT	22451
	AIR NEW SOURCE PERMITS		PERMIT	23385
	AIR NEW SOURCE PERMITS		PERMIT	23386
	AIR NEW SOURCE PERMITS		PERMIT	24297
	AIR NEW SOURCE PERMITS		PERMIT	24937
	AIR NEW SOURCE PERMITS		PERMIT	25838
	AIR NEW SOURCE PERMITS		PERMIT	25097
	AIR NEW SOURCE PERMITS		PERMIT	25312
	AIR NEW SOURCE PERMITS		PERMIT	27090
	AIR NEW SOURCE PERMITS		PERMIT	25873
	AIR NEW SOURCE PERMITS		PERMIT	28368
	AIR NEW SOURCE PERMITS		PERMIT	28775
	AIR NEW SOURCE PERMITS		PERMIT	28956
	AIR NEW SOURCE PERMITS		PERMIT	29651
	AIR NEW SOURCE PERMITS		PERMIT	29973
	AIR NEW SOURCE PERMITS		PERMIT	29650
	AIR NEW SOURCE PERMITS		PERMIT	31518
	AIR NEW SOURCE PERMITS		PERMIT	32707
	AIR NEW SOURCE PERMITS		PERMIT	33508
	AIR NEW SOURCE PERMITS		PERMIT	33352
	AIR NEW SOURCE PERMITS		PERMIT	35045
	AIR NEW SOURCE PERMITS		PERMIT	35395
	AIR NEW SOURCE PERMITS		PERMIT	35776
	AIR NEW SOURCE PERMITS		PERMIT	36182
	AIR NEW SOURCE PERMITS		PERMIT	36331
	AIR NEW SOURCE PERMITS		PERMIT	36186
	AIR NEW SOURCE PERMITS		PERMIT	36505
	AIR NEW SOURCE PERMITS		PERMIT	36878
	AIR NEW SOURCE PERMITS		PERMIT	36987
	AIR NEW SOURCE PERMITS		PERMIT	37113
	AIR NEW SOURCE PERMITS		PERMIT	38537
	AIR NEW SOURCE PERMITS		PERMIT	39412
	AIR NEW SOURCE PERMITS		PERMIT	40133
	AIR NEW SOURCE PERMITS		PERMIT	41387
	AIR NEW SOURCE PERMITS		PERMIT	41299
	AIR NEW SOURCE PERMITS		PERMIT	42222
	AIR NEW SOURCE PERMITS		PERMIT	42274
	AIR NEW SOURCE PERMITS		PERMIT	43110
	AIR NEW SOURCE PERMITS		PERMIT	44048
	AIR NEW SOURCE PERMITS		PERMIT	45798
	AIR NEW SOURCE PERMITS		PERMIT	47975
	AIR NEW SOURCE PERMITS		PERMIT	49631

AIR NEW SOURCE PERMITS	PERMIT	6819A
AIR NEW SOURCE PERMITS	PERMIT	24346
AIR NEW SOURCE PERMITS	AFS NUM	0017
AIR NEW SOURCE PERMITS	REGISTRATION	76274
AIR NEW SOURCE PERMITS	REGISTRATION	75765
AIR NEW SOURCE PERMITS	PERMIT	75717
AIR NEW SOURCE PERMITS	REGISTRATION	76194
AIR NEW SOURCE PERMITS	PERMIT	56399
AIR NEW SOURCE PERMITS	REGISTRATION	70303
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M7
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M5
AIR NEW SOURCE PERMITS	EPA ID	PSDTX772M2
AIR NEW SOURCE PERMITS	PERMIT	50925
AIR NEW SOURCE PERMITS	REGISTRATION	725
AIR NEW SOURCE PERMITS	REGISTRATION	72670
AIR NEW SOURCE PERMITS	REGISTRATION	73711
AIR NEW SOURCE PERMITS	PERMIT	72572
AIR NEW SOURCE PERMITS	PERMIT	74076
AIR NEW SOURCE PERMITS	REGISTRATION	75266
AIR NEW SOURCE PERMITS	REGISTRATION	76446
AIR NEW SOURCE PERMITS	EPA ID	PSDTX777M1
AIR NEW SOURCE PERMITS	EPA ID	PSDTX777M2
AIR NEW SOURCE PERMITS	REGISTRATION	76539
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M6
AIR NEW SOURCE PERMITS	REGISTRATION	77177
AIR NEW SOURCE PERMITS	REGISTRATION	77459
AIR NEW SOURCE PERMITS	REGISTRATION	77530
AIR NEW SOURCE PERMITS	REGISTRATION	77652
AIR NEW SOURCE PERMITS	REGISTRATION	77655
AIR NEW SOURCE PERMITS	REGISTRATION	79195
AIR NEW SOURCE PERMITS	REGISTRATION	79214
AIR NEW SOURCE PERMITS	REGISTRATION	79770
AIR NEW SOURCE PERMITS	EPA ID	PSDTX413M8
AIR OPERATING PERMITS	PERMIT	1272
AIR OPERATING PERMITS	ACCOUNT NUMBER	NE0122D
WASTEWATER LICENSING	LICENSE	WQ0000531000
WASTE WATER GENERAL PERMIT	PERMIT	2E0000048
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30529
INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50097
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50097

Location: 2825 SUNTIDE RD, CORPUS CHRISTI, TX, 78409 Rating Date: 9/1/2006 Repeat Violator: NO

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TCEQ Region: REGION 14 - CORPUS CHRISTI

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Date Compliance History Prepared: December 12, 2006

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Agency Decision Requiring Compliance History: Enforcement

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Compliance Period: December 12, 2001 to December 12, 2006

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TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Muennink Phone: (361) 825-3423

#### Site Compliance History Components

- |                                                                                              |                           |
|----------------------------------------------------------------------------------------------|---------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes                       |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | Yes                       |
| 3. If Yes, who is the current owner?                                                         | Flint Hills Resources, LP |
| 4. If Yes, who was/were the prior owner(s)?                                                  | Koch Refining Company     |
| 5. When did the change(s) in ownership occur?                                                | 01/01/2002                |

#### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/20/2006

ADMINORDER 2005-0018-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)



5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to prevent the unauthorized release of benzene on October 26, 2004 at the No. 1 Cumene Reactor (Equipment No. 04DA420).

Effective Date: 05/12/2006

ADMINORDER 2005-1659-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 1 PERMIT

Description: Failure to satisfy all demonstration criteria as described in 30 Tex. Admin. Code § 101.222 and gain an affirmative defense for contaminants released from this emissions event, Incident No. 58502. The regulated entity failed to satisfy the demonstration criteria of 30 TAC § 101.222(b)(1), (2), and (3).

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit to the Region 14 office a final report which included all individually listed compounds which were known to have been released during the emissions event.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	09/29/2006	(514148)
2	03/30/2004	(332776)
3	02/22/2005	(381911)
4	10/16/2006	(515334)
5	02/12/2006	(453536)
6	03/22/2005	(381912)
7	08/22/2006	(489391)
8	02/22/2005	(381913)
9	01/11/2005	(342595)
10	02/22/2005	(381914)
11	12/13/2005	(439149)
12	12/17/2004	(381915)
13	02/22/2005	(381916)
14	08/31/2005	(405868)
15	06/16/2005	(395317)
16	08/31/2004	(292881)
17	08/25/2003	(149639)
18	06/27/2003	(34080)
19	02/28/2005	(350991)
20	08/31/2005	(405667)
21	02/23/2004	(295759)
22	08/24/2004	(352257)
23	02/25/2002	(158996)
24	09/24/2004	(288927)
25	09/23/2004	(352258)
26	02/24/2003	(158997)
27	08/24/2004	(352259)
28	03/25/2003	(295761)
29	08/26/2005	(406021)
30	12/06/2004	(342992)
31	09/15/2006	(489520)
32	11/30/2005	(433973)
33	02/21/2006	(468536)
34	11/23/2004	(352260)
35	12/14/2005	(437435)
36	02/17/2005	(337774)
37	02/23/2004	(295762)
38	03/22/2002	(158999)
39	11/23/2004	(352261)
40	03/23/2006	(468537)
41	11/30/2005	(433974)
42	03/24/2003	(159000)

43	05/24/2004	(295764)
44	02/21/2006	(468538)
45	06/22/2004	(295766)
46	11/22/2005	(468539)
47	12/21/2005	(468540)
48	05/24/2004	(295768)
49	10/26/2006	(516897)
50	08/25/2003	(295770)
51	08/21/2006	(520285)
52	04/22/2002	(159004)
53	09/25/2006	(520286)
54	04/22/2003	(159005)
55	09/23/2003	(295772)
56	08/25/2003	(295774)
57	03/21/2005	(373751)
58	07/21/2006	(468580)
59	11/24/2003	(295775)
60	05/22/2002	(159008)
61	12/29/2003	(295776)
62	05/23/2003	(159009)
63	01/26/2004	(295777)
64	05/23/2005	(419753)
65	12/06/2006	(532315)
66	06/23/2005	(419754)
67	07/27/2004	(284451)
68	07/01/2004	(274375)
69	06/24/2002	(159012)
70	05/25/2005	(337418)
71	03/04/2005	(337092)
72	08/19/2005	(440889)
73	06/24/2003	(159013)
74	09/23/2005	(440890)
75	03/21/2005	(350992)
76	08/19/2005	(440891)
77	02/28/2006	(451808)
78	05/22/2006	(418953)
79	04/02/2003	(28427)
80	07/23/2002	(159016)
81	08/21/2006	(508941)
82	07/24/2003	(159017)
83	06/29/2005	(397679)
84	08/24/2005	(401812)
85	03/04/2005	(337581)
86	02/17/2005	(347028)
87	06/25/2002	(246555)
88	08/23/2002	(159020)
89	01/13/2004	(256717)
90	03/22/2005	(373190)
91	09/23/2002	(159023)
92	01/07/2004	(259334)
93	07/01/2005	(348124)
94	01/14/2005	(343443)
95	04/03/2002	(246553)
96	08/23/2006	(509435)
97	10/25/2006	(516898)
98	10/22/2002	(159026)
99	12/17/2003	(258097)
100	08/13/2005	(404585)
101	01/10/2002	(109197)
102	08/30/2006	(490319)
103	01/18/2002	(109198)
104	11/25/2002	(159030)
105	08/30/2005	(406208)
106	02/07/2002	(109199)
107	04/15/2004	(264615)
108	02/13/2002	(109200)
109	05/18/2006	(461571)
110	02/26/2002	(109201)

111 02/26/2002 (109202)  
 112 05/20/2002 (109203)  
 113 12/27/2001 (159033)  
 114 12/30/2002 (159034)  
 115 08/04/2005 (403348)  
 116 02/28/2005 (342613)  
 117 08/30/2006 (510851)  
 118 12/14/2005 (437441)  
 119 04/24/2006 (498271)  
 120 01/22/2002 (159037)  
 121 11/19/2004 (341703)  
 122 05/22/2006 (498272)  
 123 06/23/2006 (498273)  
 124 01/24/2003 (159038)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	01/31/2005	(381911)	
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/30/2004	(332776)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	02/10/2005	(347028)	
Self Report?	NO		Classification: Moderate
Rqmt Prov:	IHWPERMTCP IA		
	OP IA		
Description:	FHR West failed to follow the Field Plan as required by the permit		
Date:	09/30/2004	(352259)	
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/29/2004	(295761)	
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/22/2006	(489391)	
Self Report?	NO		Classification: Minor
Citation:	2D TWC Chapter 26, SubChapter A 26.121[G]		
Rqmt Prov:	PERMIT IA		
Description:	Failure to prevent the discharge of wastewater or any other waste.		
Date:	04/03/2002	(246553)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	06/27/2003	(34080)	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 307 307.4(b)(7)		
Rqmt Prov:	PERMIT IA		
Description:	Failure to prevent unpermitted wastewaters from discharging through permitted Outfall 004.		
Date:	01/11/2005	(342595)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(G)		

30 TAC Chapter 116, SubChapter B 116.115(c)(1)

Rqmt Prov: PA IA

Description: Failure to comply with the visible emission requirements for stationary vents, and to meet the demonstration requirements of 30 TAC § 101.222(b) or obtain regulatory authority for contaminants released from the WFCCU Bypass Stack.

F. Environmental audits.

Notice of Intent Date: 07/10/2006 (488046)

No DOV Associated

Notice of Intent Date: 10/03/2002 (60379)

Disclosure Date: 12/16/2002

Viol. Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.6[G]

30 TAC Chapter 101, SubChapter A 101.7[G]

Description: Failed to properly report start-up and shut-down events.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.324(2)(B)

Req Prpv: PERMIT8803A and 6308

PERMITPSD-TX-413M6 and PSD-TX-137MI

Description: Failed to monitor petroleum refinery fugitive emissions with the required frequency.

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FLINT HILLS RESOURCES, LP  
RN100235266**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0029-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Flint Hills Resources, LP ("Flint Hills") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Flint Hills appear before the Commission and together stipulate that:

1. Flint Hills owns and operates a crude oil refinery at 2825 Suntide Road in Corpus Christi, Nueces County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Flint Hills agree that the Commission has jurisdiction to enter this Agreed Order, and that Flint Hills is subject to the Commission's jurisdiction.
4. Flint Hills received notice of the violations alleged in Section II ("Allegations") on or about December 13, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Flint Hills of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Four Hundred Twenty-Five Dollars (\$3,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Flint Hills has paid Two Thousand Seven Hundred Forty Dollars (\$2,740) of the administrative penalty and Six Hundred Eighty-Five Dollars (\$685) is deferred contingent upon

CHIEF CLERKS OFFICE

2007 JUL 13 AM 10:52

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Flint Hills' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Flint Hills fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Flint Hills to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Flint Hills have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Flint Hills has implemented the following corrective measures for all Turn-around activities at the Hydrocracker Unit as of December 5, 2006:
  - a. Changes in practices have been implemented for the Hydrocracker Turn-around which require personnel to review the current decommissioning procedure; and
  - b. An in-hand low point valve checklist is reviewed to identify that the decommissioning hose is connected to the correct point valve on pressured lines above 500 pounds pressure.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Flint Hills has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, Flint Hills is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.715(a) and 101.20(3), TEX. HEALTH & SAFETY CODE § 382.085(b) and Permit No. 8803A/PSD-TX-413M8, Special Condition No. 1, as documented during a record review conducted on November 8, 2006. Specifically, 973.6 pounds ("lbs") of sulfur dioxide and 69.5 lbs of the Hazardous Air Pollutant benzene were released from the 1st Stage Flare (EPN V-6), 2nd Stage Flare (EPN V-5) and the Hydrocracker Unit (F-26) during an emissions event that began October 10, 2006 and lasted one hour and 12 minutes. Since these emissions were avoidable, Flint Hills failed to meet the demonstrations necessary to present an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.





### III. DENIALS

Flint Hills generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Flint Hills pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Flint Hills' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Flint Hills Resources, LP, Docket No. 2007-0029-AIR-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Flint Hills. Flint Hills is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Flint Hills in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Flint Hills, or three days after the date on which the Commission mails notice of the Order to Flint Hills, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
For the Executive Director

6/27/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

\_\_\_\_\_  
Signature

3/7/07  
\_\_\_\_\_  
Date

Phil Gaarder  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Flint Hills Resources, LP

UP & Manufacturing Mgr  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

